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10/039,511	01/04/2002	Victor P. Laskorski	930025-2002	9064
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FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER THOMAS, ALEXANDER S	
			ART UNIT	PAPER NUMBER
			1772	
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/039,511
Filing Date: January 04, 2002
Appellant(s): LASKORSKI, VICTOR P.

MAILED
DEC 02 2004
GROUP 1700

Ronald R. Santucci
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 11, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1, 2 and 5-14 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

2002/0164465

CURRO et al

11-2002

(10) Grounds of Rejection

Claims 1, 2, 5-7 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Curro et al. Curro et al disclose a laminate comprising a first layer (20) of uniform

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thickness, a second layer (40) of uniform thickness positioned over the first layer, inserts (30) inserted between the first and second layers, and means, such as thermal bonding, connecting portions of the first and second layers together between the inserts. The inserts can be an elastomeric, expanded material and the first and second layers can be the instantly claimed non-woven materials. See Figure 2 and paragraphs 0061, 0073, 0090, 0091 and Table 1. Concerning claims 6 and 7, since the inserts have not been defined with any directional properties, any two central or insert layers such as disclosed in the reference's article read on the instantly claimed inserts. The term "insulation" in the preamble of the claims does not provide any structurally distinguishing features to the claimed material. Furthermore, any article, such as those disclosed in the reference, possesses insulating properties to a degree, whether they be heat, sound, electrical, etc. insulating properties.

Claims 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curro et al. The reference discloses the invention substantially as claimed; see the above rejection under 35 U.S.C. 102(e). However it does not disclose central parts or insert parts of the laminate formed from three or more layers. The teaching of the use of more than one central layer in paragraph 0090 of the reference would suggest to one of ordinary skill in the art the use of three or more central layers in the article of the reference depending on the end use of the article.

The rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Hoyt is hereby withdrawn as being cumulative.

(11) Response to Argument

Appellant argues that the Curro et al laminate web is not insulation material as defined in the preamble of the instant claims and that the laminate of Curro et al is said to be conductive and is, therefore, by definition not an insulation material. In response, as stated above in the rejection under 35 U.S.C. 102, the term "insulation" in the preamble of the claims does not provide any structurally distinguishing features to the claimed article. Furthermore, any article, such as those disclosed in the reference, possesses insulating properties to a degree, whether they be heat, sound, electrical, etc. insulating properties. In addition, Curro et al disclose that their laminate can be used in bedding applications as blankets, as fabrics for clothing, etc.; see the Abstract and paragraphs [0148] and [0149]. Clearly these uses require a degree of insulating properties, particularly the clothing and blanket applications. Therefore, the Curro et al laminates are from an analogous art and inherently possess insulation properties.

Concerning the fact that one of the Curro et al embodiments may be electrically conductive, this in and of itself does not preclude this laminate as well as the other laminate of Curro et al from being insulating. An article possessing electrical conductivity still may possess thermal insulating properties. For example, conductive laminates as disclosed in [0071] and [0151] of the reference possess thermal insulating properties to a degree. In any event, Curro et al disclose many embodiments which do not possess an electrically conductive layer, i.e. a metal layer, for example see Figure 2, paragraph [0054] and Table 1.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



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ast
November 30, 2004

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